

HOUSE BILL 523

P2, P1

2lr1262

By: **Delegates Rosenberg, Carter, Oaks, B. Robinson, and Tarrant**

Introduced and read first time: February 2, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Public Works – Procurement Contracts – Economic Inclusion Plans**

3 FOR the purpose of requiring the Board of Public Works to approve economic inclusion
4 plans for certain State procurement contracts; requiring that economic inclusion
5 plans be drafted by certain contractors in collaboration with certain units and
6 local community groups; requiring that economic inclusion plans promote the
7 involvement and training of certain minority business enterprises, locally
8 owned businesses, and local residents; requiring that economic inclusion plans
9 include certain procedures, policies, and processes; requiring certain units to
10 determine certain definitions by considering certain factors; requiring the Board
11 to adopt certain regulations; requiring certain units to waive certain
12 requirements for economic inclusion plans under certain circumstances;
13 requiring certain bidders, offerors, or contractors to carry out certain economic
14 inclusion plans in good faith; requiring certain units to make certain
15 determinations; providing that certain penalties apply under certain
16 circumstances; and generally relating to the Board of Public Works,
17 procurement contracts, and economic inclusion plans.

18 BY adding to

19 Article – State Finance and Procurement

20 Section 12–601 through 12–603 to be under the new subtitle “Subtitle 6.
21 Economic Inclusion Plan”

22 Annotated Code of Maryland

23 (2009 Replacement Volume and 2011 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – State Finance and Procurement**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **SUBTITLE 6. ECONOMIC INCLUSION PLAN.**2 **12-601.**3 **(A) THE BOARD SHALL APPROVE AN ECONOMIC INCLUSION PLAN FOR**
4 **EACH STATE PROCUREMENT CONTRACT FOR \$25,000,000 OR MORE.**5 **(B) AN ECONOMIC INCLUSION PLAN SHALL:**6 **(1) BE DRAFTED BY A CONTRACTOR AWARDED A PROCUREMENT**
7 **CONTRACT FOR \$25,000,000 OR MORE, IN COLLABORATION WITH THE UNIT**
8 **THAT AWARDED THE PROCUREMENT CONTRACT AND LOCAL COMMUNITY**
9 **GROUPS; AND**10 **(2) PROMOTE:**11 **(I) THE INVOLVEMENT OF MINORITY BUSINESS**
12 **ENTERPRISES AND LOCALLY OWNED BUSINESSES; AND**13 **(II) THE TRAINING AND EMPLOYMENT OF LOCAL**
14 **RESIDENTS.**15 **(C) AN ECONOMIC INCLUSION PLAN SHALL INCLUDE:**16 **(1) PROCEDURES FOR MONITORING AND PROVIDING OVERSIGHT**
17 **OF THE ECONOMIC INCLUSION PLAN;**18 **(2) A NONDISCRIMINATION POLICY;**19 **(3) ECONOMIC INCLUSION GOALS ESTABLISHED FOR EACH TRADE**
20 **AND SERVICE AS DETERMINED BY THE PRICE PERCENTAGE OF THE TOTAL**
21 **DOLLAR VALUE OF THE CONTRACT EXPECTED TO BE PERFORMED BY MINORITY**
22 **BUSINESS ENTERPRISES OR LOCALLY OWNED BUSINESSES;**23 **(4) WORKFORCE INCLUSION GOALS FOR THE MINIMUM NUMBER**
24 **OF WORK HOURS TO BE PERFORMED BY LOCAL RESIDENTS;**25 **(5) A PROCESS FOR:**26 **(I) ASSESSING LOCAL RESIDENTS AND PROVIDING THEM**
27 **WITH JOB-READINESS SKILLS, INDUSTRY-SPECIFIC CUSTOMIZED TRAINING,**
28 **CAREER COACHING, JOB PLACEMENT, AND JOB RETENTION SERVICES;**

1 **(II) ASSISTING CONTRACTORS TO MEET THE GOALS**
2 **ESTABLISHED BY THE ECONOMIC INCLUSION PLAN, INCLUDING:**

3 **1. HELPING CONTRACTORS IDENTIFY EMERGING**
4 **JOB OPPORTUNITIES;**

5 **2. DEVELOPING CUSTOMIZED TRAINING PROGRAMS**
6 **FOR JOB OPPORTUNITIES;**

7 **3. IDENTIFYING LOCAL RESIDENTS TO ENROLL IN**
8 **TRAINING PROGRAMS; AND**

9 **4. PLACING LOCAL RESIDENTS IN JOBS; AND**

10 **(III) ENCOURAGING LOCAL SKILLED LABORERS TO SEEK**
11 **EMPLOYMENT OPPORTUNITIES;**

12 **(6) PROCEDURES FOR IMPLEMENTING THE ECONOMIC**
13 **INCLUSION PLAN; AND**

14 **(7) ANY OTHER INFORMATION THE BOARD DETERMINES THAT**
15 **MAY:**

16 **(I) PROMOTE THE INVOLVEMENT OF MINORITY BUSINESS**
17 **ENTERPRISES AND LOCALLY OWNED BUSINESSES; AND**

18 **(II) PROMOTE THE TRAINING AND EMPLOYMENT OF LOCAL**
19 **RESIDENTS.**

20 **(D) A UNIT AWARDING A PROCUREMENT CONTRACT OF \$25,000,000 OR**
21 **MORE SHALL DETERMINE THE APPROPRIATE DEFINITIONS FOR LOCALLY**
22 **OWNED BUSINESSES, LOCAL RESIDENTS, AND LOCAL COMMUNITY GROUPS BY**
23 **CONSIDERING:**

24 **(1) THE TYPE OF PROCUREMENT; AND**

25 **(2) THE PRINCIPAL LOCATION WHERE THE SUBJECT OF THE**
26 **PROCUREMENT WILL BE CARRIED OUT, INCLUDING THE SURROUNDING**
27 **POPULATION AND NUMBER OF POTENTIAL BIDDERS AND OFFERORS.**

28 **(E) THE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THE**
29 **PROVISIONS OF THIS SUBTITLE.**

1 **12-602.**

2 **A UNIT MAY WAIVE THE REQUIREMENTS OF THIS SUBTITLE IF:**

3 **(1) THE PROCUREMENT CONTRACT IS FOR LESS THAN \$10,000;**

4 **(2) THE PROCUREMENT MEETS THE REQUIREMENTS FOR AN**
5 **EMERGENCY CONTRACT ESTABLISHED UNDER § 13-108 OF THIS ARTICLE;**

6 **(3) THE REQUEST FOR A WAIVER SATISFIES THE WAIVER**
7 **REQUIREMENTS FOR THE MINORITY BUSINESS ENTERPRISE PROGRAM**
8 **ESTABLISHED IN ACCORDANCE WITH § 14-303(B)(8) OF THIS ARTICLE; OR**

9 **(4) OTHERWISE PROVIDED IN REGULATIONS ADOPTED BY THE**
10 **BOARD.**

11 **12-603.**

12 **(A) A BIDDER, AN OFFEROR, OR A CONTRACTOR SHALL ACT IN GOOD**
13 **FAITH TO CARRY OUT AN ECONOMIC INCLUSION PLAN THAT IS APPROVED BY**
14 **THE BOARD.**

15 **(B) A UNIT SHALL MAKE A FINDING WHETHER A BIDDER, AN OFFEROR,**
16 **OR A CONTRACTOR COMPLIED, IN GOOD FAITH, WITH AN ECONOMIC INCLUSION**
17 **PLAN IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD.**

18 **(C) IF A UNIT FINDS THAT A BIDDER, AN OFFEROR, OR A CONTRACTOR**
19 **DID NOT ACT IN GOOD FAITH TO CARRY OUT AN ECONOMIC INCLUSION PLAN,**
20 **THE FOLLOWING PENALTIES MAY APPLY:**

21 **(1) THE PENALTIES PROVIDED BY §§ 11-204 THROUGH 11-205.1**
22 **OF THIS ARTICLE;**

23 **(2) THE PENALTIES PROVIDED BY LAW FOR THE MINORITY**
24 **BUSINESS ENTERPRISE PROGRAM ESTABLISHED UNDER TITLE 14, SUBTITLE 3**
25 **OF THIS ARTICLE; OR**

26 **(3) ANY OTHER PENALTIES PROVIDED BY LAW.**

27 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
28 **October 1, 2012.**